

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ERIC TONKEN,	§	
<i>Plaintiff,</i>	§	
	§	
v.	§	<u>C.A. NO. 4:14 cv 02374</u>
	§	(Jury)
WILLIAM PACE, HOUSTON	§	
ARMORY, LP, and HOUSTON	§	
ARMORY TECHNOLOGY GROUP, LP	§	
<i>Defendants.</i>	§	

**DEFENDANTS WILLIAM PACE, HOUSTON ARMORY, LP, AND HOUSTON**  
**ARMORY TECHNOLOGY GROUP, LP'S ORIGINAL ANSWER**

TO THE HONORABLE JUDGE:

COMES NOW, William Pace, Houston Armory, LP, and Houston Armory Technology Group, LP, (collectively sometimes referred to as "Defendants") Defendants in the above styled and numbered cause of action, and files this, their Original Answer and would respectfully show the Court as follows:

**I. Discovery Control Plan**

1. Defendants admit the information contained in Paragraph 1 of the Plaintiff's Original Petition on file in this matter.

**II. Claim for Relief**

2. Defendants deny the information contained in Paragraph 2 of Plaintiff's Original Petition on file in this matter.

**III. Introduction**

3. Defendants deny the information contained in Paragraph 3 of Plaintiff's Original Petition on file in this matter.

**IV. Parties**

4. Defendants are unable to admit or deny the information contained in Paragraph 4 of Plaintiff's Original Petition on file in this matter.

5. Defendants admit the information contained in Paragraph 5 of Plaintiff's Original Petition on file in this matter.

6. Defendants admit the information contained in Paragraph 6 of Plaintiff's Original Petition on file in this matter.

7. Defendants admit the information contained in Paragraph 7 of Plaintiff's Original Petition on file in this matter in as much as they relate to service of process. Defendants deny the remainder of the allegations and information contained in Paragraph 7 of Plaintiff's Original Petition on file in this matter.

**V. Jurisdiction**

8. Defendants admit the information contained in Paragraph 8 of Plaintiff's Original Petition on file in this matter.

9. Defendants admit the information contained in Paragraph 9 of Plaintiff's Original Petition on file in this matter.

**VI. Venue**

10. Defendants admit the information contained in Paragraph 10 of Plaintiff's Original Petition on file in this matter.

**VII. Facts**

11. Paragraph 11 of Plaintiff's Original Petition on file in this matter does not require a response.

12. Defendants deny the information contained in Paragraph 12 of Plaintiff's Original Petition on file in this matter.

13. Defendants are unable to admit or deny the information contained in Paragraph 13 of Plaintiff's Original Petition on file in this matter.

14. Defendants are unable to admit or deny the first sentence contained in Paragraph 14 of Plaintiff's Original Petition on file in this matter. Defendants admit the second sentence contained in Paragraph 14 of Plaintiff's Original Petition on file in this matter. Defendants are unable to admit or deny the information contained in the third sentence of Plaintiff's Original Petition on file in this matter. Defendants admit the information contained in sentence 4 of Plaintiff's Original Petition on file in this matter.

15. Defendants admit the information contained in Paragraph 15 of Plaintiff's Original Petition on file in this matter

16. Defendants deny the information contained in Paragraph 16 of Plaintiff's Original Petition on file in this matter.

17. Defendants deny the information contained in Paragraph 17 of Plaintiff's Original Petition on file in this matter.

18. Defendants deny the information contained in Paragraph 18 of Plaintiff's Original Petition on file in this matter.

19. Defendants deny the information contained in sentences one (1) and two (2) of Paragraph 19 contained in Plaintiff's Original Petition. Defendants admit the remainder of the information contained in Paragraph 19 of Plaintiff's Original Petition on file in this matter.

20. Defendants deny the information contained in Paragraph 20 of Plaintiff's Original Petition on file in this matter

21. Defendants deny the information contained in Paragraph 21 of Plaintiff's Original Petition on file in this matter.

22. Defendants deny the information contained in Paragraph 22 of Plaintiff's Original Petition on file in this matter.

23. Defendants deny the information contained in Paragraph 23 of Plaintiff's Original Petition on file in this matter.

24. Defendants deny the information contained in Paragraph 24 of Plaintiff's Original Petition on file in this matter

25. Defendants deny the information contained in Paragraph 25 of Plaintiff's Original Petition on file in this matter.

26. Defendants deny the information contained in Paragraph 26 of Plaintiff's Original Petition on file in this matter.

27. Defendants deny the information contained in Paragraph 27 of Plaintiff's Original Petition on file in this matter.

28. Defendants deny the information contained in Paragraph 28 of Plaintiff's Original Petition on file in this matter.

29. Defendants deny the information contained in Paragraph 29 of Plaintiff's Original Petition on file in this matter.

30. Defendants deny the information contained in Paragraph 30 of Plaintiff's Original Petition on file in this matter.

31. Defendants deny the information contained in Paragraph 31 of Plaintiff's Original Petition on file in this matter.

32. Defendants deny the information contained in Paragraph 32 of Plaintiff's Original Petition on file in this matter.

33. Defendants deny the information contained in Paragraph 33 of Plaintiff's Original Petition on file in this matter.

34. Defendants deny the information contained in Paragraph 34 of Plaintiff's Original Petition on file in this matter.

35. Defendants deny the information contained in Paragraph 35 of Plaintiff's Original Petition on file in this matter.

36. Defendants deny the information contained in Paragraph 36 of Plaintiff's Original Petition on file in this matter.

37. Defendants admit attendance at the Shot Show Conference in Las Vegas and that Defendants products were demonstrated. Defendants deny the remained of the information and allegations contained in Paragraph 37 of Plaintiff's Original Petition on file in this matter.

38. Defendants deny the information contained in Paragraph 38 of Plaintiff's Original Petition on file in this matter.

39. Defendants deny the information contained in Paragraph 39 of Plaintiff's Original Petition on file in this matter.

40. Defendants deny the information contained in Paragraph 40 of Plaintiff's Original Petition on file in this matter.

41. Defendants deny the information contained in Paragraph 41 of Plaintiff's Original Petition on file in this matter.

42. Defendants deny the information contained in Paragraph 42 of Plaintiff's Original Petition on file in this matter.

43. Defendants deny the information contained in Paragraph 43 of Plaintiff's Original Petition on file in this matter.

44. Defendants deny the information contained in Paragraph 44 of Plaintiff's Original Petition on file in this matter.

45. Defendants deny the information contained in Paragraph 45 of Plaintiff's Original Petition on file in this matter.

46. Defendants deny the information contained in Paragraph 46 of Plaintiff's Original Petition on file in this matter.

47. Defendants admit the information contained in Paragraph 47 of Plaintiff's Original Petition inasmuch as it relates to demonstration, invitation and the mission of SOCOM. Defendants deny the "Plaintiff's Integral Suppressor and 2d suppressor" statement.

48. Defendants admit the information contained in Paragraph 48 of Plaintiff's Original Petition inasmuch as it relates to demonstration, invitation and the mission of SOCOM. Defendants deny the "Plaintiff's Integral Suppressor and 2d suppressor" statement.

49. Defendants admit the information contained in Paragraph 49 of Plaintiff's Original Petition inasmuch as it relates to attendance. Defendants deny the "Plaintiff's Integral Suppressor and 2d suppressor" statement.

50. Defendants deny the information contained in paragraph 50 of Plaintiff's Original Petition on file in this matter.

51. Defendants deny the information contained in Paragraph 51 of Plaintiff's Original Petition on file in this matter.

**VIII. Application for Temporary Restraining Order**

52. Paragraph 52 of Plaintiff's Original Petition on file in this matter does not require a response.

**A. Texas Civil Practice and Remedies Code Section 134A.003**

53. Paragraph 53 of Plaintiff's Original Petition on file in this matter does not require a response.

54. Defendants deny the allegations and information contained in Paragraph 54 of Plaintiff's Original Petition on file in this matter

55. Defendants deny the allegations and information contained in Paragraph 55 of Plaintiff's Original Petition on file in this matter.

56. Defendants deny the allegations and information contained in Paragraph 56 of Plaintiff's Original Petition inasmuch as they require a response.

**B. Texas Civil Practice and Remedies Code Section 65.001**

57. Defendants deny the information contained in Paragraph 57 of Plaintiff's Original Petition on file in this matter.

58. Defendants deny the information contained in Paragraph 58 of Plaintiff's Original Petition on file in this matter.

59. Defendants deny the information contained in Paragraph 59 of Plaintiff's Original Petition on file in this matter.

60. Defendants deny the information contained in Paragraph 60 of Plaintiff's Original Petition on file in this matter.

61. Defendants deny the information contained in Paragraph 61 of Plaintiff's Original Petition on file in this matter.

62. Defendants deny the information contained in Paragraph 62 of Plaintiff's Original Petition on file in this matter.

63. Defendants deny the information contained in Paragraph 63 of Plaintiff's Original Petition on file in this matter.

64. Paragraph 64 of Plaintiff's Original Petition on file in this matter does not require a response.

65. Defendants deny the information contained in Paragraph 65 of Plaintiff's Original Petition on file in this matter.

#### **IX. Request for Temporary Injunction**

66. Defendants deny the information contained in Paragraph 66 of Plaintiff's Original Petition on file in this matter.

#### **X. Request for Permanent Injunction**

67. Defendants deny the information contained in Paragraph 67 of Plaintiff's Original Petition on file in this matter.

#### **XI. Causes of Action**

##### **Count 1 Declaratory Judgment**

68. Paragraph 68 of Plaintiff's Original Petition on file in this matter does not require a response.

69. Defendants deny the information contained in Paragraph 69 of Plaintiff's Original Petition on file in this matter.

70. Defendants deny the information contained in Paragraph 70 of Plaintiff's Original Petition on file in this matter.

71. Defendants admit the information contained in Paragraph 71 of Plaintiff's Original Petition on file in this matter.

72. Defendants deny the information contained in Paragraph 72 of Plaintiff's Original Petition on file in this matter.

**Count 2- Theft of Trade Secrets Under the Texas Uniform Trade Secrets Act, Civil Practice and Remedies Code Chapter 134A as to the 2d Suppressor**

73. Paragraph 73 of Plaintiff's Original Petition on file in this matter does not require a response.

74. Defendants deny the information contained in Paragraph 74 of Plaintiff's Original Petition on file in this matter

75. Defendants admit attendance and invitation however Defendants deny the remainder of the allegation and information contained in Paragraph 75 of Plaintiff's Original Petition on file in this matter.

76. Defendants deny the information contained in Paragraph 76 of Plaintiff's Original Petition on file in this matter.

**Count 3- Violation of the Texas Theft Liability Act Relating to the Integral Suppressor, Texas Civil Practice and Remedies Code Chapter 134**

77. Paragraph 77 of Plaintiff's Original Petition does not require a response.

78. Paragraph 78 of Plaintiff's Original Petition does not require a response.

79. Defendants deny the information contained in Paragraph 79 contained in Plaintiff's Original Petition on file in this matter.

80. Defendants deny the information contained in Paragraph 80 contained in Plaintiff's Original Petition on file in this matter.

81. Defendants deny the information contained in Paragraph 81 contained in Plaintiff's Original Petition on file in this matter.

82. Defendants deny the information contained in Paragraph 82 contained in Plaintiff's Original Petition on file in this matter.

83. Defendants deny the information contained in Paragraph 83 contained in Plaintiff's Original Petition on file in this matter.

**Count 4- Violation of the Texas Theft Liability Act Relating to the Rattler and the Baby Rattler, Texas Civil Practice and Remedies Code Chapter 134**

84. Paragraph 84 of Plaintiff's Original Petition on file in this matter does not require a response.

85. Paragraph 85 of Plaintiff's Original Petition on file in this matter does not require a response.

86. Defendants deny the information contained in Paragraph 86 of Plaintiff's Original Petition on file in this matter.

87. Defendants deny the information contained in Paragraph 87 of Plaintiff's Original Petition on file in this matter.

88. Defendants deny the information contained in Paragraph 88 of Plaintiff's Original Petition on file in this matter.

89. Defendants deny the information contained in Paragraph 89 of Plaintiff's Original Petition on file in this matter.

**Count 5- Unfair Competition by Misappropriation**

90. Paragraph 90 of Plaintiff's Original Petition does not require a response.

91. Defendants deny the information contained in Paragraph 91 of Plaintiff's Original Petition on file in this matter.

92. Defendants deny the information contained in Paragraph 92 of Plaintiff's Original Petition on file in this matter.

93. Defendants deny the information contained in Paragraph 93 of Plaintiff's Original Petition on file in this matter.

94. Defendants deny the information contained in Paragraph 94 of Plaintiff's Original Petition on file in this matter.

95. Defendants deny the information contained in Paragraph 95 of Plaintiff's Original Petition on file in this matter.

96. Defendants deny the information contained in Paragraph 96 of Plaintiff's Original Petition on file in this matter.

**Count 6- Negligent Misrepresentation**

97. Paragraph 97 of Plaintiff's Original Petition on file in this matter does not require a response.

98. Defendants deny the information contained in Paragraph 98 of Plaintiff's Original Petition on file in this matter.

99. Defendants deny the information contained in Paragraph 99 of Plaintiff's Original Petition on file in this matter.

100. Defendants deny the information contained in Paragraph 100 of Plaintiff's Original Petition on file in this matter.

101. Defendants deny the information contained in Paragraph 101 of Plaintiff's Original Petition on file in this matter.

**Count 7-Fraud**

102. Paragraph 102 of Plaintiff's Original Petition on file in this matter does not require a response.

103. Defendants deny the information contained in Paragraph 103 of Plaintiff's Original Petition on file in this matter.

104. Defendants deny the information contained in Paragraph 104 of Plaintiff's Original Petition on file in this matter.

105. Defendants deny the information contained in Paragraph 105 of Plaintiff's Original Petition on file in this matter.

106. Defendants deny the information contained in Paragraph 106 of Plaintiff's Original Petition on file in this matter.

**Count 8-Breach of Fiduciary Duty**

107. Paragraph 107 of Plaintiff's Original Petition on file in this matter does not require a response.

108. Defendants deny the information contained in Paragraph 108 of Plaintiff's Original Petition on file in this matter.

109. Defendants deny the information contained in Paragraph 109 of Plaintiff's Original Petition on file in this matter.

110. Defendants deny the information contained in Paragraph 110 of Plaintiff's Original Petition on file in this matter.

111. Defendants deny the information contained in Paragraph 111 of Plaintiff's Original Petition on file in this matter.

**Count 9- Unjust Enrichment**

112. Paragraph 112 of Plaintiff's Original Petition does not require a response.
113. Defendants deny the information contained in Paragraph 113 of Plaintiff's Original Petition on file in this matter.
114. Defendants deny the information contained in Paragraph 114 of Plaintiff's Original Petition on file in this matter.
115. Defendants deny the information contained in Paragraph 115 of Plaintiff's Original Petition on file in this matter.

**Count 10- Conversion of Integral Suppressor**

116. Paragraph 116 of Plaintiff's Original Petition on file in this matter does not require a response.
117. Defendants deny the information contained in Paragraph 117 of Plaintiff's Original Petition on file in this matter.
118. Defendants deny the information contained in Paragraph 118 of Plaintiff's Original Petition on file in this matter.
119. Defendants deny the information contained in Paragraph 119 of Plaintiff's Original Petition on file in this matter.

**Count 11- Conversion of Plaintiff's 2d Suppressor Prototypes,  
Rattlers and Baby Rattlers**

120. Paragraph 120 of Plaintiff's Original Petition on file in this matter does not require a response.
121. Defendants deny the information contained in Paragraph 121 of Plaintiff's Original Petition on file in this matter.

122. Defendants deny the information contained in Paragraph 122 of Plaintiff's Original Petition on file in this matter.

123. Defendants deny the information contained in Paragraph 123 of Plaintiff's Original Petition on file in this matter.

**Count 12- Breach of Contract-Rattlers and Baby Rattlers**

124. Paragraph 124 of Plaintiff's Original Petition on file in this matter does not require a response.

125. Defendants deny the information contained in Paragraph 125 of Plaintiff's Original Petition on file in this matter.

126. Defendants deny the information contained in Paragraph 126 of Plaintiff's Original Petition on file in this matter.

**XII. Exemplary Damages**

127. Paragraph 127 of Plaintiff's Original Petition on file in this matter does not require a response.

128. Defendants deny the information contained in Paragraph 128 of Plaintiff's Original Petition on file in this matter.

**XIII. Claim for Attorney Fees**

129. Paragraph 129 of Plaintiff's Original Petition does not require a response.

130. Defendants deny the information contained in Paragraph 130 of Plaintiff's Original Petition on file in this matter.

131. Defendants deny the information contained in Paragraph 131 of Plaintiff's Original Petition on file in this matter.

132. Defendants deny the information contained in Paragraph 132 of Plaintiff's Original Petition on file in this matter.

**XIV. Trial by Jury**

133. Paragraph 133 of Plaintiff's Original Petition on file in this matter does not require a response.

**XV. Conditions Precedent**

134. Defendants deny the information contained in Paragraph 134 of Plaintiff's Original Petition on file in this matter.

**XVI. Request for Disclosure**

135. Defendants have removed this cause of action to this Honorable Federal Court and discovery will be conducted pursuant to the Rules of Federal Practice.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendants William Pace, Houston Armory, LP, and Houston Armory Technology Group, LP prays that Plaintiff take nothing against Defendants and that Defendants recover their attorney fees expended herein. The Defendants pray for any such other and further relief to which they may show themselves justly entitled to.

Respectfully Submitted,

By: \_\_\_\_\_ /s/ Keval Patel  
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ATTORNEY FOR DEFENDANTS

**Certificate of Service**

I hereby certify that on the 25<sup>th</sup> day of August 2014, a copy of the Defendants William Pace, Houston Armory, LP, and Houston Armory Technology Group, LP's Original Answer was electronically filed on the CM/ECF system, which will automatically serve a Notice of Electronic Filing on known Filing Users to the following attorneys of record.

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/s/Keval Patel  
Keval Patel